HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 232 OF 1992

The State of Maharashtra
Through its Secretary, Revenue
Department, Mantralaya
Bombay 400 032 and Others.
..Appellants.

Versus.

M/s. Surrendra Industries(Private)
Limited, a Private Limited Company
incorporated and registered Under the
Indian Companies Act, having its
Registered Office at 'Apaejoy House',
3, Dinasha Vachha Road,Bombay 400 032 ..Respondent.

Shri. B. H. Mehta, A. G. P. for the appellants.

Shri.P. M. Pradhan, for the respondent.

CORAM: S.B.MHASE &
S.R.SATHE JJ

DATE: SEPTEMBER 20, 2006.

P.C.

1. This appeal is directed against the judgment and decree passed in Special Civil Suit No. 493 of 1987 by the 2nd Joint Civil Judge, Senior Division, Thane on 31st December 1990, whereby the decree was passed against the appellants declaring that the demand notice issued by the appellants vide their letter dated 6th January 1986, demanding a sum of Rs.46,33,170-50 ps., letter issued by Talathi dated Nil, demanding amount of Rs. 36,85,088-85 ps.

and third demand notice dated 2nd November 1987 demanding sum of Rs. 42,86,862-85 ps.are baseless, illegal, unlawful and void. It is further declared that so called revision of the arrears of the Non-Agricultural assessment amounting to Rs.42,86,862-85 ps. is illegal, unlawful and void. By the said decree,it is further declared that the recovery of the amount of Rs.3,00,000/- made by the defendants from the respondent-Company is illegal, unlawful and void and further directed to refund amount of Rs.3,00,000/-to the respondent-Company.

2. Said decree is challenged by the appellants by filing this appeal. However,today learned Counsel for the respondent has filed pursis, marked as Exhibit-"X", and informed that the respondents have filed Writ petition No. 2369 of 2000 in this Court, challenging various demands in respect of Non-agricultural assessments of the property situated at Thane and same is pending for hearing and final disposal, and in view of the pendency of said Writ petition, respondents withdraw Special Civil Suit No. 493 of 1987 with liberty to agitate points involved therein in Writ Petition No. 2369 of 2000. Thus, by this pursis, initial suit filed by the respondents is being withdrawn with

liberty to agitate same points in the pending Writ Petition. Learned Counsel Mr. Mehta, who appears for the appellants has no objection for granting leave to withdraw the said suit, with liberty to raise such points, raised in the present suit, in the pending Writ Petition. Therefore, we pass the following order.

ORDER

Leave to withdraw Special Civil Suit No. 493 of 1987 filed by the respondent, with a liberty to agitate points involved in the said suit in Writ Petition No. 2369 of 2000, is hereby granted, and thus, Special Civil Suit No. 493 of 1987 filed before Civil Judge, Senior Division, Thane, stands disposed of, as withdrawn with a liberty as stated above. In view of withdrawal of the suit, decree passed on 31st December, 1990, is hereby quashed and set aside and the appeal is allowed to that extent. Accordingly, the First Appeal is disposed of.

(S.R.SATHE,J.) **(S.B.MHASE, J.)**

:sut/2006/..